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Memorial

Joseph Benson Foraker

MEMORIAL

TO

JOSEPH BENSON FORAKER

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MEETING OF THE BENCH AND BAR HELD IN THE COURT ROOM OF THE UNITED STATES CIRCUIT COURT OF APPEALS, FEDERAL BUILDING, CINCINNATI, OHIO

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TEN O'CLOCK, SATURDAY MORNING, JUNE SIXTEENTH IN THE YEAR ONE THOUSAND NINE HUNDRED AND SEVENTEEN

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JUDGES PRESIDING

HONORABLE JOHN W. WARRINGTON,
United States Circuit Court of Appeals;

HONORABLE HOWARD C. HOLLISTER,
District Court of the United States;

HONORABLE FRANK M. GORMAN,
Court of Appeals, Cincinnati, Ohio;

HONORABLE ROBERT C. PUGH,
Superior Court, Cincinnati, Ohio;

HONORABLE JOHN A. CALDWELL,
Court of Common Pleas, Hamilton County, Ohio.

The meeting was called to order by Judge Warrington announcing:

This is a meeting of the bar and members of the bench. We understand that a committee has been appointed to present a memorial to the late Senator Foraker. If that committee is ready to report, it is now in order to present the memorial.

JUDGE OUTCALT—

If Your Honors please—The committee appointed to draft a memorial upon the death of the late Senator Foraker have assigned to me the duty, which I regard an honor, of presenting and reading the memorial which has been prepared:

MEMORIAL

JOSEPH BENSON FORAKER was born on a farm in Highland County, Ohio, July 5, 1846. His militant patriotism took him, at the age of sixteen, to the battle fields of the Civil War as a private soldier. His rise to the rank of captain at the age of twenty was wholly due to a personality which must even then have been unusual.

There can be no doubt that if the call to arms had not come when it did, his active spirit, animating high natural abilities, would have pushed him early to

distinction; but it is difficult to say what direction his career would have taken if he had entered upon it through the ordinary portals of peaceful times.

As it was, he first put on the gown of the college student when he put off his uniform, graduating at Cornell University in 1869, after taking the earlier part of his course at the Ohio Wesleyan.

He studied law with Judge James Sloan at Hillsboro, Ohio, and commenced practice in Cincinnati, in 1869, as partner of Judge P. J. Donham, who was soon succeeded by L. C. Black.

The eagerness of the people to show gratitude to the defenders of the Union made certain the early entry into public life of one with the glamour of heroism about him, who had for that life both rare qualifications and strong inclinations. So we find him nominated for Governor of Ohio when he was only thirty-seven years old and commencing the first of his two successive terms in that office when he was only thirty-nine.

Five years after their expiration he was elected to the Senate of the United States, where he served two full terms.

He took a leading part in the State and National Conventions of his party for almost thirty years. And always, in or out of office, he was active in the study and discussion of public affairs.

The result was a National reputation as a public man, which came early and endured throughout his life. This naturally outgrew and overshadowed his ability and standing as a lawyer, though these played no small part in winning and maintaining his high rank among the statesmen of his time.

His work and fame in these broader fields belong to the history of Ohio and the Nation. It is for the Bench and Bar to express and record their appreciation of his professional qualities and their esteem for his traits as a comrade in a calling which, more than any other, thoroughly tests and fully reveals the abilities and character of those who follow it.

Like that of many who came to the Bar soon after the Civil War, his preparation was scanty, judged by present standards. He was conscious of this lack and worked diligently to supply it. He grasped legal principles quickly and wielded them with skill and precision. He had unusual ability to seize essential facts and make them dominant. His conclusions were reached by clear and comprehensive reasoning and always found forcible, orderly, lucid and persuasive expression. He was eminent in all the qualities of the advocate, including firm belief in the justice of the cause he espoused.

He was by nature impetuous and high spirited. He had the true warrior temperament. He seemed to delight in the conflicts of the forum, as he had done in

battle, doubtless because he realized, consciously or unconsciously, that there he shone most brightly. Yet he was never unfair or discourteous, and his thrusts, even under provocation, did not break the rules of honorable combat.

After nine years of general practice, which took him well along the road to eminence at a Bar which then ranked unusually high among the lawyers of the entire country, he was elected Judge of the Superior Court of Cincinnati when only thirty-two years old. His associates were Judges Force and Harmon. He displayed judicial qualities which led to general regret when his service ended. But his active temperament did not take kindly to the confinement of the bench and his health became impaired, seriously as was then feared. So he resigned at the end of two years.

After his recovery and several months spent in travel and recuperation, he resumed practice with L. C. Black.

A few months later, on the recommendation of the Bar, the Governor tendered him an appointment as Judge of the Supreme Court. This he felt compelled to decline.

His firm soon had a large and successful practice, which was rapidly growing when he was elected Governor in 1885. After four years in that office he formed a partnership with L. C. Black and Nathaniel Rockhold, the latter being succeeded by C. A. Bos-

worth. He practiced alone, however, for several years, with great success, until he took his seat in the Senate, March 4, 1897.

The twelve years he served in that body were crowded with public business of the greatest importance. This related, among other things, to finance, war, regulation of industry and commerce, the acquisition and government of distant islands with inhabitants strange in race, language and ideas, and the joining of the Atlantic and Pacific Oceans by a great Canal. In discussion and legislation upon all these subjects he bore an active and useful part, bringing to bear, with his shining abilities, the outcome of deep study and broad research.

In 1909 he returned to his home and practice in Cincinnati. His partners at various times were Miller Outcalt, Walter L. Granger, Charles E. Prior, and his brother, James R. Foraker. His firm had an extensive business, much of it of an important character. But after several years he again practiced alone, gradually reducing his activity until of late, failing health led to almost complete retirement.

He died at his home, May 10, 1917.

But for these long and frequent interruptions of his professional career, his industry and abilities would beyond doubt have placed him among the very few whose fame has extended beyond the ranks of the

profession in which it was won. He nevertheless achieved a very high reputation as a lawyer.

His friendships were true and lasting, and forensic encounters, however keen, bred with him no personal animosities. To those who knew him in professional and private life he will always remain in memory a brilliant, but gracious and wholesome figure, generous, sympathetic, considerate, courteous and loyal.

(Signed)

JUDSON HARMON
L. C. BLACK
MILLER OUTCALT
M. L. BUCHWALTER
CHARLES B. WILBY
FERDINAND JELKE
DAVID DAVIS
SHERMAN T. McPHERSON
ELLIS B. KINKEAD
GEORGE H. WARRINGTON
LAWRENCE MAXWELL
GEORGE HOADLY

Committee.

JUDGE WARRINGTON—

The report of the Committee will be received and according to arrangements made by the Committee, of which we have been advised, we will hear remarks to the Memorial. We will hear from a number of gentlemen, all who wish to say anything; but in the nature of things, the time given to each speaker will have to be limited to five minutes.

JUDGE OUTCALT—

May it please Your Honors—It is the desire of the Committee that the Memorial be approved and that it be spread at length upon the Journals of the Courts of this District, and also entered upon the Journals of our local County Courts.

In moving its adoption, I cannot refrain from expressing the deep and lasting gratitude I feel for the help and assistance the Senator gave me at the very beginning of my professional life and his constant interest and wise counsel in after years. Whatever measure of success I may have attained, received its inspiration from him. A friendship which commenced in the early eighties soon ripened into an intimacy, only to create the love and affection which one man can have for another, and only to be lost when that other has fallen into his last long sleep.

It would be but indifferent gratitude, if such a feeling of the heart were possible, were I the least

unmindful of the benefits thus bestowed, and my words remained unsaid.

The Memorial just read has drawn a faithful picture of his busy life, illumined as it was by acts of valor upon the field of honor and distinguished as it was by wise and patriotic service in the councils of the Nation.

It was a career illustrious and engaging, to the younger as well as to the older men of this generation, when the very soul of this Nation is aroused by the stern alarums of this frightful war. Would that we had in this present crisis both his presence and his influence in the legislature of this Nation! There would be no faltering or wavering in the policy of action. The pulses of men would beat quicker and his intrepid manhood would cause the very tips of their fingers to tingle with enthusiasm.

Though we are met to record the virtues of his professional life as a lawyer and member of this Bar, his services to his country in National life are so intermingled as to become inseparable, and we cannot pass them by.

It was my good fortune to be associated with him as a member of his law firm for a number of years, which gave me opportunity to study him at short range and to see his genius as a lawyer manifested by his quick and decisive judgment, his power to grasp and handle with supreme ability the most difficult problems

and to observe the fidelity and unswerving loyalty given to his client's cause. I have been with him in the trial of cases and have exulted in the manifestations of respect and esteem that, consciously or unconsciously, came to him from court and counsel. He was a lawyer among lawyers, a man among men. Would that we had his like again!

His strength was always in what he represented. He was rarely at fault, never resentful, never malevolent; generous, patient, forgiving. His untimely death is our great loss.

Verily, as I once heard him say of another:

> "Like a swift fleeting meteor, a fast flying cloud,
> A flash of the lightning, a break of the wave,
> Man passes from life to his rest in the grave."

JUDGE WARRINGTON—

Will Mr. Colston speak to the Memorial?

MR. COLSTON—

Mr. Chairman and Gentlemen—Friendship with Senator Foraker always went hand in hand with intense admiration. Yet it does not seem to me to be necessary upon an occasion of this kind to undertake to catalogue all of the great qualities and capabilities which he possessed, but rather to notice in a general way the high attributes that constituted his character.

No one who knew Senator Foraker would for a moment deny that he possessed intellectual attainments of the very highest order. Take him as a schoolboy, as a young and gallant soldier fighting for the cause of his country, as a collegian, as a lawyer, as a judge, as an executive, as a statesman, as a politician—every state that he occupied was illumined by the brilliance that was peculiarly his own.

As an orator he assuredly stood in the very front ranks of those whose productions have made American oratory famous the world over.

Had he died a member of the United States Senate, there would have been pompous ceremonies and speeches burdened with praise, delivered by eminent men; but inasmuch as he died in our midst, a private but highly eminent citizen, it shall not be that he can pass from among us unhonored and unsung.

Handsome, debonair, talented, surely he was an ornament to this Bar, one whom we will not soon forget, one of whom we shall be proud as long as memory lasts. Therefore, Mr. Chairman, I have esteemed it a high honor to be allowed to voice my approval of the things that have been recorded of Senator Foraker in the Memorial that we have heard.

JUDGE WARRINGTON—

Mr. Stephens, we would like to hear from you.

MR. STEPHENS—

Mr. Chairman and Gentlemen of the Bar—We have been admonished that our time is limited and I am glad that I have reduced to writing the few words I intend to say upon this occasion.

Joseph Benson Foraker was never called to any position of honor that he did not fill with distinction.

The patriotic impulse and native courage that caused him to become a soldier in the Civil War when a mere boy, were followed by merited advancement and honor, and inspired his entire career. He had an intense love of his country and a firm belief in her democratic institutions. Were he now in his former place in the Senate, we know the force and the enthusiasm with which he would help prepare for the stirring times ahead of us.

When Judge of the Superior Court, he served with ability and fidelity.

As Governor and Senator he made an impress upon his party and the country that will cause his name ever to be remembered. He was brilliant, aggressive and able in advancing any cause he favored, and a formidable opponent of any measure he opposed. Though one might differ with him in some positions he assumed, he gathered about him a host of friends by the earnest and able presentation of any question he espoused, so that he became a factor and leader in his party and known everywhere.

There was one phase of his character which to me was always a delight, and that was the social and kindly side of his nature. The high positions to which he was called never turned his head, or caused him to forget his old friends and acquaintances. He was ever the same kind and genial man in his welcome and intercourse, and always a delightful companion. In this world of change and uncertain worldly prosperity, this characteristic always indicated to me that he was a man of broad vision and a kind heart. It was this quality, I think, in a measure, that endeared him to all sorts and conditions of men.

I esteem it a pleasure to say these few words of remembrance.

JUDGE WARRINGTON—

May we hear from Mr. Black?

MR. L. C. BLACK—

Mr. Chairman and Gentlemen—I cannot let this occasion pass without laying a tribute of respect and affection upon the bier of my old friend and associate. I shall not undertake to dwell on the record and achievements of Senator Foraker; I shall only call attention to certain personal characteristics which meant more to me than the record of his statesmanship. Excepting only Judge Morris L. Buchwalter, my acquaintance

with the late Senator Foraker is longer than that of any other man at this Bar. This acquaintance began in 1870. Intimate daily association with him began in 1875. This association was close and intimate for many years. When we first met, I, like everybody else, fell under the thrall of his magnetic and compelling personality. He impressed me as being the most interesting and captivating man I ever met. This experience was very common in the youth and early manhood of J. B. Foraker. His engaging personality instantly won everybody he met and most of his acquaintances became intense partisans. I recall the instance of a man who made his acquaintance about the year 1878, who said to me, with a rapt enthusiasm, "I wish I had $25,000; I would give it to Foraker to establish him." This man became a close and intimate associate of Senator Foraker, rose to high station, and never lost that sense of loyalty.

It is somewhat difficult for me to summarize the personal traits of J. B. Foraker, which were so enticing. Perhaps it was the high promise of a great future in the youth to which all the world seems friendly and willing to give aid. His open, noble countenance and evident promise of a great career, made everybody an ally.

It is not easy to enumerate and weigh all of the strong traits of J. B. Foraker. To one or two I shall allude in particular.

Our late friend won four marked honors—Senator, Governor, Judge and Captain. These honors were all well won and worthily worn.

As Senator he was the peer of his fellows. As Governor he was a commanding figure in his State and in the Nation. As Judge he won a high position.

No title he acquired ever so well expressed and fitted him as that of Captain. The quality of leadership, martial bearing, high honor, bold action, are all summarized in the word "Captain." It was the quality of that captaincy which led Lieutenant Foraker up the slopes of Missionary Ridge, the first man of his company to cross the ditch and the breastworks. It was that quality of captaincy, or leadership, which won him public recognition and authority among his fellows. His sword was always ready and quickly drawn in whatever he deemed a righteous cause, and it was never sheathed so long as it could be used in that cause. He was brave, bold, defiant, just, humane.

It was his natural leadership which led to an historic incident in the Senate. Without a moment's notice, his friend, who held a high administrative office, was violently and unjustly assailed from the opposite side of the Chamber, and this assault involved the integrity of high administrative policies. The administrative side of the Chamber stood aghast and nobody was prepared to make a defence, the report of which should properly go out to the country together

with the assault. Without a moment's preparation, Senator Foraker arose in his place and in a peerless speech, not only vindicated his friend and the administrative policy, but repelled the assault and drove the attacking party to confusion. Such a telling blow did he deal in this instance that the assault was never repeated. The knightly, soldierly quality in him was such that I was always reminded of Balzac's description of one of Napoleon's generals: "A brow like the map of a field of battle."

Another characteristic was the integrity of his mind and his conscience. In his course he always went whither his mind and his conscience, under right processes, led him. His conscience was actuated by the most just sense of right and the highest degree of honor. With him, there was nothing like speaking one thing and doing another. I was much interested in having his daughter who lives in Philadelphia, tell me that at times when he was about to engage in some great debate in the Senate, notably the Brownsville affair and the Railroad Rate bill, he would call her to the telephone and say to her that he was about to engage in a debate on the unpopular side; that he would probably create many powerful enemies and be bitterly assailed in the public press. He would say to her that she must not be moved by what she read in the newspapers; that she must know that he was right and not be concerned about the result.

To those who knew him as the speaker knew him, all of the calumnies which were showered upon him fell from him like autumn leaves from a bronze statue. None adhered.

We all know the quickness of his mind, his power of close, cogent reasoning, and the force of his address. His eloquence was not a matter of rhetoric or elocution, though with him, both were good. His oratory was powerful because he vitalized facts and made reality quick and palpitant. His oratory came within the definition of eloquence as given by Daniel Webster, in the one word—"Action."

And now it is to say "Good Bye," Captain Foraker. If your shade today traverses the fields of Asphodel, we know it is in the fit company of other high, gallant, martial spirits.

JUDGE WARRINGTON—

We will hear from Judge Buchwalter.

JUDGE BUCHWALTER—

May it please the Court and you, Gentlemen of the Bar—Although raised in an adjoining county, I had never met our friend until after the war, at the Ohio Wesleyan University. He was then known as Captain Foraker, a popular young hero of the Civil War. It is one of my happy memories that we were college chums, were roommates for two years, first at the Ohio

Wesleyan, then at Cornell University, and for a year or more after we came to Cincinnati.

His life in college was clean, moral, industrious and zealous, a splendid example to young college men, esteemed by the Faculty. Ex-President Andrew D. White, now eighty-odd years of age, said in a recent letter:

"I shall always remember, with pleasure, my acquaintance with him in college, and since, as a man whose noble qualities, and especially his patriotic devotion to his country, I have always admired and respected. I was also attached to him for his courage and his qualities of heart. So far as I was able to observe his career it was an honorable and noble one. * * * * * * * * *

"He it was, who, when others failed to secure for me a secretary for the Embassy at Berlin, appointed for merit and usefulness in that position, stood by me and helped me secure him. He it was, who, on leaving my house here at Ithaca to apprise Mr. Blaine of his nomination to the presidency, took my personal letter to Mr. Blaine and gave me aid in securing the adhesion of the latter to the great extension of the reform of civil service.

"I remember all that as I think of him as a statesman; and I remember, too, the days when as a student he arrived at Cornell, pursuing his work here most earnestly and creditably, and I feel proud of the fact that he was among the first students of Cornell to whom I handed the diploma giving him the baccalaureate degree of the University."

His college life was prophetic of his great career in public life, which was only a clearly marked evolution of the character and the ideals of the young man. He

was esteemed as a young hero, fresh from the battle field—of fine, handsome presence. He was bred and reared by parents fervently religious, whose faces were steadily set against the wrongs of human slavery—this trend of thought, this idea of duty, became firmly fixed by his service in the army, and was the monitor of his zealous attitude on kindred subjects arising in his public life. When we reflect upon these conditions and his training as a lawyer, it is no wonder he resisted the executive order by which *a whole company* of United States soldiers at Brownsville were discharged in dishonor, because no evidence could be procured against any *one* of the company of joining in a riotous proceeding in the town. He was born with a high order of intellect, and yet *his industry was his genius.*

While he was strenuously industrious in preparation for issues in which he took part, he was also marvelously quick in the formation of his views upon current questions. He laid down such questions by his ideals, by his fixed standards of thought and action, and thus solved them. I have always been of the opinion that Senator Foraker had the best impromptu judgment of any man it has been my fortune to meet and intimately know.

Those young college days were filled with happy memories; they were our formation days, in which lasting friendships were made, our hopes and life plans, our aspirations took form—days of our courtships and

our youthful love-making—these sacred things were a part of our mutual confidences.

JUDGE WARRINGTON—

Judge Hosea?

JUDGE HOSEA—

May it please the Court and Gentlemen of the Bar—I think, upon the record here, that I may fairly claim to be the oldest Cincinnati friend of the late Senator Foraker present. I had forgotten this until reminded of it by this Memorial. We were comrades together in the war for the Union, although I did not personally meet him then, that I recall. We have been associated together as members of the Military Order of the Loyal Legion of the United States from its beginning, although I do not exactly remember the date of that. He remained in that membership up to the time of his death.

We were also members at different times of the Superior Court, during the period when it still retained the prestige of its reviewing jurisdiction. But I recall most distinctly of all that I met Senator Foraker when he first came to Cincinnati as a young lawyer in partnership with Mr. P. J. Donham. Our offices were in the same building; our entrance doors were adjoining; our war-time reminiscences and the circumstances of that close, neighborly relation naturally laid the foundation of an acquaintance which was very pleasant;

and, I say with some satisfaction, quite warmly expressed by him throughout his life.

At that time, my strong impression of Senator Foraker was that he was very retiring, very modest and almost painfully diffident at times, and those qualities remained with him until after his service in the Superior Court. Afterwards he passed on into a wider sphere of usefulness and of active political life, and my acquaintance with him then was for a long time only casual. In the zenith of his power, when he was known not only throughout this country, but far beyond it, as a great statesman, a brilliant forensic orator, and a great lawyer, too, I sometimes wondered just how and when and under what circumstances it was that he blossomed from that modest youth into the great forceful character, as we came to know him. That was a puzzling question to me for some years, until, in the period of the Spanish War, in 1898, I was a great deal in Baltimore and Washington as counsel for an Eastern company and was an occasional guest at Senator Foraker's home, and there my puzzling question was answered. The impression made upon me by those circumstances and surroundings, was, that it was an admirable, fitting and happy domestic partnership, which had stirred and stimulated him to his larger effort, which awakened in him the latent power which made him the great man that he really was.

In the limited time, may it please the court and gentlemen of the Bar, I feel that it would not be proper for me to enlarge upon his merit; others can do that and serve this occasion much better.

JUDGE WARRINGTON—

Mr. Probasco?

MR. PROBASCO—

Gentlemen of the Bench, Gentlemen of the Bar, Friends and Admirers of Senator Foraker—The dawn of the day of the life of our dead hero found this country in a most horrible condition of civil strife. The heart of the Nation was pulsating; the atmosphere was in a state of tremor; the Nation hung in the balance, between Union and disseverence. That great feeling had charged the atmosphere of the whole Nation; that great feeling struck into the heart of young Foraker, the boy, and made him impetuous, created that impetuosity that went with him through his whole life, until his last faltering hours—made him a man, made him a brave man, made him courageous to fight and courageous to defend. It put into him the experience which he gathered as an officer and a private in the war—the great quality of ignoring the petty mosquitos, the human mosquitos that buzzed about his head, but which did him no harm.

Then came the early hours of the day, when people of his country and his state recognized in him a rising, leading spirit, with all the qualities of advocate and executive, and he was then placed, about the midday of his life, in these high positions.

Then when the sun had passed its zenith and fell upon the afternoon of his great career, he was found in the highest body on the face of the earth, a leader among leaders, interpreting the laws as he had before been doing, he now became a maker of the laws. He stood among the phantasies of fads, of fancies, of foibles, and from among them, out of them, notwithstanding them, he made himself felt in the making of the principal laws that covered his period in the Senate of the United States.

Why, my friends, if you take the two lives of John Sherman and Senator Foraker, the life of Sherman lapped over by the life of Foraker, you have the history of the State of Ohio from 1854 actually until today—simply a recitation of these biographical sketches is the history of the state and practically of the Union, for this time.

Then coming on down, we reach the twilight of the day of that life, and without intending to stir rancour or excite unpleasant memories, he was, before the zenith of his career had been reached, before the greatness of his influence had been achieved, ruthlessly set aside and retired to private life. Notwithstanding all that

he was the private counsel of many leaders of the Union; his office was almost given up to the visits of the great and powerful geniuses of the country, and from his mind and from his heart went out to the country those matters of grave advice which he was so capable of giving.

Then the gloom came of the midnight hour and he lay down to die. It was then that those who had known him intimately, because of the love he had inspired in them, because of the love he had inspired in his dear wife and charming children, it was then that tears of manly love and womanly love and childly love were shed for him, and this gathering here today, without even so beautiful a memorial as that, gentlemen, is a testimonial in itself of what he was and what he stood for.

God bless the memory of Senator Foraker.

JUDGE WARRINGTON—

Gentlemen, there are those present who come from other parts of the state, and we wish to hear from them in this meeting. I think we should all like to hear from General Keifer.

GENERAL KEIFER—

If Your Honors please—Nothing need be said by me in addition to what I have heard here this morning.

I was in the city and I took great pleasure in attending this meeting.

I knew Senator Foraker very well in many relations of life. I had some close, intimate, personal, confidential talks with him in the latter months of his life. He had some ambition to have a monument of some kind to stand for what he had represented in the world. I said to him, what I say and repeat now, that he was like another great statesman, a citizen of this Republic; he had erected his own monument and its pedestal was as wide as the whole Republic of the United States, and that would stand, although there might be no marble shaft to mark it. That seemed to please him.

Now, a word about this modesty that my distinguished friend, Judge Hosea, speaks about: He seemed to feel that that modesty that belonged by nature to the youth of Senator Foraker, was not in consonance with the forceful attitude and courage displayed in his later life, did not stand as an attribute of it. I think it did, with all due respect to the sentiments the Judge has expressed. I have witnessed it among strong minded, fearless, but timid men in private life, in public life and in the army. I was once told by one great in this country, who had observed human nature—"Look out for the modest, quiet man; if you attack him and undertake to overthrow him, he will display his courage, that courage that rests upon an honest sentiment, for modesty is an attribute."

I can say, too, in this presence, to one of Your Honors presiding here, I have witnessed men in the army—I could name one, especially, who was as honest and as retiring, as undemonstrative in private and social life, as any modest lady of the land—yet upon the battle field, such as in the great battle of the Wilderness and other places, he was heroic, strong, unforgetting of duty himself and never letting anybody else forget it either. It is that development that comes from such modesty. I am almost tempted to say that Governor Foraker, Senator Foraker, Captain Foraker, was almost of the same age as your presiding officer here when he was in the army; and I could tell incidents that would be reminders to the presiding officer, and to all of you, going back, back, when Captain Foraker was in one army and he was in another.

One time in this state, shortly after the Civil War, at a meeting of Sherman and Grant's generals, I heard General William Tecumseh Sherman say that as he reached the battle field of Bentonville, North Carolina, where General Joe Johnson's army had been concentrated—it was on the 19th of March, 1865, near the close—that as he reached there he found that he needed to concentrate his army. He said that he met a young man, handsome, splendid in attitude, riding a gay horse; that his name was Joseph B. Foraker of Ohio, and he sent him for a corps and when the corps arrived they went into battle; and that was the last field battle

fought by Sherman's army in the Civil War. It was not the last battle, but it was getting near to it. We had a later battle I could give testimony about that went into the early days of April, 1865, and Lee surrendered, as you all know, on the 9th of April, 1865, and I think in that battle, Foraker was a captain in his nineteenth year.

I thank you very much.

JUDGE WARRINGTON—

Now, remembering the admonition, gentlemen, we wish to extend invitation to anyone who wishes to present some remarks to this Memorial. If there is anyone present who wishes to speak, we shall be glad to hear him now?

MR. E. P. BRADSTREET—

May it please Your Honors—I wish to say one word only as illustrative of the character of our departed friend, which has been alluded to in part, already: When he was nominated for Judge of the Superior Court, it occurred to some of the people here that his peculiar temperament and his existing activities in politics, might possibly interfere with his being a conservative and careful judge. So a vigorous effort was made to defeat him in that campaign. I was in it to some extent. When he was elected, I felt, as a lawyer,

that possibly it would be rather awkward to try cases before Judge Foraker. Time went on and it so happened that I had several cases to try before him. He so conducted himself upon the bench from the beginning toward everybody and especially, I may say, toward those who had differed from him politically, that I soon felt uncomfortable, and uneasy, for the part I had taken, and it bore upon me to such an extent that after some months I went to him personally and told him about this and my feeling about it, told him that I felt a sense of duty to tell him about it frankly. He got up from his chair and took my hand with that grasp of his that men who felt it will never forget; he burst into a joyous peal of laughter, and said, "I know all about it, sir; I say to you, you had a perfect right to fight against me as hard as you could; I am glad you have come here to tell me what you have." From that moment there sprung up between us a feeling of friendship that only increased from year to year. When he became Senator, if there was anything which I personally wanted done in connection with Congress, he was the man to whom I instantly turned, and he not only went out of his way to write about the result, but even to wire when it was accomplished—and it always was accomplished, if it was something that ought to be done.

We were thrown together at one time in a deal, trying to make some money, Senator Foraker, a number

of other gentlemen and myself, very intimately for a couple of years; the thing went wrong and when it was ended the wrong way, Senator Foraker took my hand and said, "Bradstreet, never speak to me about this again, and I never will to you, if you say so." Not a word from that moment, thirty years ago, ever passed between us about it. We were most loving friends, and I want to say, that, knowing him as I did, I feel a sense of loss, the loss of one who was near and dear to me, not only as a lawyer, not only as a statesman, but as a faithful, loyal, reliable friend.

JUDGE WARRINGTON—

I take it that the meeting is ready for the question presented by the Chairman who read the Memorial; that question is: shall the Memorial be adopted, copies sent to the courts to be spread upon the minutes and a copy to the family of Senator Foraker. Are you ready for the question?

The motion is unanimously adopted and will be carried out according to its terms.

The meeting is adjourned.

(Signed) JOHN W. WARRINGTON,
Chairman.

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